

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:11-cr-00108-AGF
)	
DENNIS RAY CAPPS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

On January 31, 2024, this Court granted Defendant Dennis Ray Capps's motion for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A), and reduced Capps's sentence to 180 months' imprisonment, plus a term of 10 years of supervised release. ECF No. 165 (hereinafter the "Compassionate Release Order"). The Court also added to Capps's conditions of supervision an additional period of up to six months at a residential reentry center, as deemed appropriate by the United States Probation Office. *Id.* In light of Capps's time already served and other credits, following receipt of the Compassionate Release Order, the Bureau of Prisons (BOP) released Capps from custody on February 6, 2024. Capps is now scheduled to meet with the Probation Office regarding placement in an approved residential reentry center (RRC).

The matter comes now before the Court on the Government's Motion for Emergency

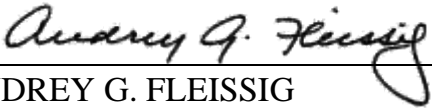
Administrative Stay and Stay Pending Appeal, filed late in the evening of February 6, 2024, the same date as Capps was released, and approximately one week after the Court issued its Compassionate Release Order. ECF No. 168. In its motion, the Government originally requested that Capps remain in the custody of the BOP pending any appeal. The Court ordered (ECF No. 169) expedited briefing on the motion, and Capps has filed his opposition.

In its reply brief, the Government now states: “[G]iven that Capps is ordered to spend 6 months at a residential reentry center subject to all standard conditions of supervision, the Government does not oppose him remaining at a halfway house—provided that the Court imposes an additional condition of location monitoring during the pendency of an appeal to mitigate his risk of flight.” ECF No. 171 at 2. The Government requests that the condition of location monitoring remain during the pendency of any appeal, if any notice of appeal is filed, or until such time as the Solicitor General declines to pursue an appeal. *Id.*

Before ruling on the Government’s motion, the Court will give Capps an opportunity to respond to the Government’s new request that Capps remain at an RRC for six months and be placed on location monitoring during the pendency of any appeal, if any notice of appeal is filed, or until such time as the Government notifies the Court that it has declined to pursue an appeal.

Accordingly,

IT IS HEREBY ORDERED that Defendant shall have until the close of business on **Wednesday, February 14, 2024**, to file any response to the Government's reply brief (ECF No. 171) and the requests for relief contained therein.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 12th day of February, 2024.